

WHITNEY AND
OLNEY ARGUE.Reasons Why the Income Tax
Should Be Upheld.THE COURT ROOM CROWDED
INCOME TAX A TAX UPON ALL
PROPERTY.Attorney-General Olney Closes For
the Government in a Clean-Cut
Argument, Showing the Unmis-
takeable Purpose of the Law, and
Choate Follows in Behalf of
the Defendants—The Case Will Close
Today.

Washington, D. C., May 7.—The second day's rehearing of the income tax cases in the supreme court today began with Assistant Attorney-General Whitney in the midst of his argument for a reversal of the former opinion of the court on the question of the validity of the federal tax on incomes derived from rents. All the seats on the bench were again occupied today as yesterday and visitors crowded the court room.

Mr. Whitney said his historical brief, which he had promised yesterday, had not reached him from the printer, but he had already gone al-

very brief peroration, and Attorney-General Olney addressed the court.

The attorney-general said: "I fully appreciate the liberality of the court both in according this rehearing and in the matter of the time allowed for argument. I realize, at the same time, that it cannot be fairly taken advantage of merely to reiterate considerations already fully presented, and that it should be availed of only on new matters now proven to be important, but which, so far as the government is concerned, has thus far been practically untouched. The present posture of the case I conceive to be this: The contention of the government at the former hearing was that the validity of general income tax law could not now be drawn in question—being conclusively settled by repeated adjudications of this court as well as by the uniform and long continued practice of the other departments of the government. That contention has been sustained, though by an equally divided court, with two exceptions. One related to the income of state and municipal securities and presents a question on which I do not ask to be heard at this time. The other relates to rents on real estate in respect of which the position of the court is that they are not embraced within the limit, scope of previous decisions.

"This conclusion is one of which I am unable to feel the force, or appreciate the justice, and as the question is of immense importance to the government, politically and pecuniarily, I shall consume a few moments in respectfully urging its reconsideration.

The Precise Question.
"It is important to bear in mind the precise question. It is not whether there may not be a tax on rents which must not be deemed to be a tax on the land producing them. It is not whether a land tax measured by rents or rental value may not be the most efficient and most scientific method of taxing land. The question is, does this income tax law create a tax which is necessarily to be deemed a tax on real estate?"

"For answer, the best source of in-

formation is, of course, the statute itself. The most superficial examination shows that real estate tax as such is intended by Congress. If it had been, there would have been a provision for the appraisement, by rental value or otherwise, of vacant and unproductive land. If it had been, there would have been provision for the appraisement, by rental value or otherwise, of houses and grounds which are occupied as homesteads and for purposes of private enjoyment and pleasure.

"The owner of vacant, unproductive lands held for investment and speculation, who may give city lots or thousands of unimproved acres, pays nothing under this law on account of such lands. The millionaire with a half million dollar mansion in the city and an equally costly residence by the sea-side pays nothing under this law. The manufacturer or the railroad corporation, the very basis of whose business is the interest in real estate occupied and used, pays nothing under this law on account of such real estate. It is impossible to contend, therefore, that this law contemplates real estate as such as the subject of the tax imposed by it. If there could be a possible doubt on that point it is excluded by the enumeration of the subjects of the tax contained in section 23. Each and every one is personal property, and so carefully is the distinction observed that when the clause imposing the succession tax is reached it is expressly limited to money and the value of all personal property acquired by the gift of inheritance.

The Unmistakable Purpose.
"Such being the unmistakable purpose of the law, is it true that Congress has stultified itself? Is it true that it has managed to do the very thing that it meant to avoid doing? Is it true that it has placed among the constituents of his taxable income. But the intent of the Congress is to be recognized and executed, if possible, and its inclusion of rents in taxable income is not to be defeated by the statute which would prevent it. Can such a view be taken? I respectfully submit not only that it can be, but that it should—that it is the only reasonable and best way. The opinion of the court deals with the case as if rents were the only subject of the income tax law. That is not, I submit, the true way of looking at the matter. But suppose it be adopted, what follows? We then have a statute dealing with the landlords, as a class, taxing them because of their vocation of landlords and measuring the tax by rents actually received.

"The statute, however, cannot properly be looked at in that way. It is not a statute imposing a tax upon a particular class of persons, namely, landlords. In respect to a particular source of income, namely, rents, it is a statute—special exemptions being not now considered—it is a statute taxing all persons having incomes in respect of all sources of incomes.

A Great Error.
"The tax payer pays this year according to his money spending ability of last year and it is entirely conceivable that the person who has not earned a cent and is without a cent's worth of property real or personal, may, nevertheless, be assessed on hundreds of thousands of dollars of income actually received by him last year. Yet this is the sort of tax which is called a tax on real estate for no other reason than that last year's rents form part of the yardstick by which this year's money spending capacity is measured. A greater error, I submit, could not easily be committed.

"If the distinction between personal property and real estate is maintained—and that it is a necessary assumption of the argument—where does this court get the authority to set it aside as a matter of form? No such authority exists.

"It may be a tax upon personality in the shape of rents as is the same thing to the landlord, and particularly as a tax upon the land itself.

"But landlords are not the only parties concerned. The whole people are interested, since to them it is of the first importance that the constitution should be respected in its entirety and that no branch of the government should undertake to deal with any part of it outside its proper sphere.

"It is intimated that, logically speaking, if a tax on real estate is a direct tax, so is a tax on personal property, and that if a tax on rents is a tax on

ECUADOR RIPE
FOR REVOLUTION.United States Steamer Ranger
Has Been Sent Thither.MANY AMERICANS THERE,
HAVE INTERESTS IN SILVER MINES
AND OTHER PROPERTIES.The Monterey Has Arrived at Panama,
Where She Will Remain For
Some Time—Vessels of the Asiatic
Squadron Continue to Patrol
Japanese and Chinese Waters—
Our Interests Carefully Guarded.

Washington, May 7.—The fact leaked out at the navy department today, after having been successfully hidden from the public for a week, that the United States steamer *Ranger* had been ordered from Buena Ventura, Colombia, on May 2 to Esmeralda, a port in northern Ecuador, where she probably has been for the last four days, the voyage being only about 400 miles in length. This order was issued at the request of the state department, where it was stated the request had been made because the department had been convinced by representations made by Americans having interests in Ecuador, that it would be wise to do so. No further statement as to the nature of the trouble in Ecuador could be gathered at the state department, but from other sources it is learned that a revolution is believed to be impending in that country as the outcome of the bitter popular dissatisfaction engendered by the use of the Ecuadorian flag to cover the transfer to Japan of the Columbian Straits Paper company, of Chicago. The concern has in debt of \$200,000 outside of its bonded liabilities. It has defaulted recently in the payment of interest. The available assets are \$50,000. There is also a mortgage against the company held by a trust company, which has been foreclosed.

The report that President Cleveland had sent a draft of \$500 to a family in Ecuador, Ind., on the occasion of the birth of triplets which were named for the president's household, was pronounced to be without foundation at the White House today. Families in which triplets occur when the president has been notified that they bear his name or the names of his family, receive a courteous letter of acknowledgment, but no checks.

Two electric saws of four-thousand and candle power are being used in an examination of a dark swamp near East Thompson, Conn. Some time ago, the wife and 8-year-old son of Zed Storkewelle, a farmer, disappeared. Bloody clothing was found in the house and stains on the woodwork. The farmer was arrested. He said his wife had been angry and had been in the swamp. The blood was from chickens he had killed in the house. The swamp is about a mile from his home. The bodies of the woman and boy are concealed there.

The secretary of the interior has affirmed the decision of the commissioner of the general land office in the case of Charles Graham against the heirs of Archibald Campbell, and the Great Falls, Mont., Water Power and Trawnsite company, rejecting the application for confirmation to Graham of the valuable lands, comprising the tract involved. Graham claims he has acquired the lands by vested rights, a contention overruled by the department.

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After spending nearly twenty years of his life in an effort to secure redress for the murder of his brother, Colonel John George Ryan, a Chicago lawyer, died yesterday. Colonel Ryan was a brother of General Ryan, who led the Americans in Cuba at the time of the Virginius massacre. Twenty years ago, and was killed. To avoid international complications the Spanish government agreed to pay to General Ryan's family an indemnity of \$10,000. Colonel Ryan made effort to have the claim recognized by the United States government and recently was engaged in preparing legal papers relating to the collection of the money which was to be forwarded to the state department in Washington.

The six new gunboats for which plans have recently been approved by the secretary of the navy will be known as No. 10, 11, 12, 13, 14 and 15 until they are named by the secretary. It is the intention of the construction bureau in preparing the specifications to have the new boats built in the least possible time and it is considered that they ought to be ready to go into commission within fifteen months. The naval bill provides that not more than two shall be built at one yard and some rivalry is likely among the firms securing the contracts to complete the boats as quickly as possible. Information received at the department indicates that there will be some very spirited competition among the different yards as the firms competent of doing the work have asked for complete and early information as to the plans and specifications.

FROM MINERALS, VEGETABLES.
It has long been a dream of the evolutionist that the vegetable kingdom had evolved from the mineral, as he believes that the animal has evolved from the vegetable, and it may be that in the fairy world on our window panes we are witnessing, as it were, the efforts of nature to effect this transformation. We are told that the earth was once too hot to support the life of plants, but that after the surface had cooled, trees, shrubs, and mosses sprang up. Whence did they come?

A frosted window pane shows us the strange phenomenon of inorganic matter assuming the shape of ferns, leaves, and flowers, and may perhaps represent to our eyes the first stage of a process which will culminate in the growth of the vegetable era of our earth's history. This is the story of the evolution of life, where we read: "The brook became a river, the river became a sea, the sea became a land, the land became a world, the world became a man, the man became a spirit, the spirit a God."—The Spectator.

Acting Secretary of State Uhl has called Acting Consul-General Springer, at Havana, to immediately report to the military court of Manuel Fuentes, the New York Times correspondent. The consul-general has been ordered to report immediately, as there is some apprehension of his life being in danger.

Secretary Gresham is reported to be constantly gaining ground and it is said that all danger is passed. It is hoped that he will leave for some health resort in about ten days. The report from his house is that he is much better and hopes are entertained that he will recover.

Chairman Dudley, of Dallas, Tex., has called a meeting of the executive committee of the Democratic party of Texas at Dallas on the 15th inst. for the purpose of defining the position of the party on silver. He says the issue now must be met and the party united for action next year with the common enemy.

It took the fire department a posse of citizens, led by a deputy sheriff, to arrest a burglar named Camp, who was in the room of a hotel at New Richmond, Wis. When located, he set fire to a lot of papers. The hotel was threatened with destruction, but the burglar held the firemen and posse at bay for some time, though the room was full of smoke and the fire was spreading. One man in the posse was shot in the arm.

A special train on the Erie road which

WEAK WOMEN
AND
WEARY MEN.Require "A Friend in Need." Such a
Friend Can Be Found In

WARNER'S SAFE CURE.

It is Admittedly the Standard Remedy
for Bright's Disease, Kidney,
Bladder and Urinary Diffi-
culties, and Female
Complaints.

arrived in Chicago yesterday morning with President Thomas, of the New York Lake Erie & Western, and President McCullough, of the Chicago & Erie, on board, made a remarkable run from Huntington, Ind., to Hammond. The distance is 122 miles and the train covered it in exactly 124 minutes. Stops amounting to twelve minutes were made, making the time for the run of 122 miles, 122 minutes.

There was no mining in West Virginia yesterday. The soldiers are having a quiet recreation and are mingling freely with the people. They say they came here under misapprehension. The miners' convention will assemble today. All the men charged with violations have been discharged. It is understood all coal operations are suspended.

Chief Hazen, of the secret service, has been advised of the arrest at Oswego, N. Y., of William Harlow alias Eustice Lewis, who is wanted at Seattle, Wash., for making moulds and causing counterfeit money to be passed. Harlow was one of a large gang indicted but he escaped. He has been sent to jail pending a warrant for removal.

W. G. E. See has been appointed by Chancellor McGill, in Jersey City, receiver of the Columbia Street Paper company, of Chicago. The concern has in debt of \$200,000 outside of its bonded liabilities. It has defaulted recently in the payment of interest. The available assets are \$50,000. There is also a mortgage against the company held by a trust company, which has been foreclosed.

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"Aw—why do you make your own cigarettes?"

"My—aw—doctor ordered me some light exercise."

—Pall Mall Budget.



She: "Isn't there something burning here?"

He: "It is my heart, darling."

She: "Oh, dear me! I could never live with a heart like that!"

—Life.

A Carload of
Baby Carriages

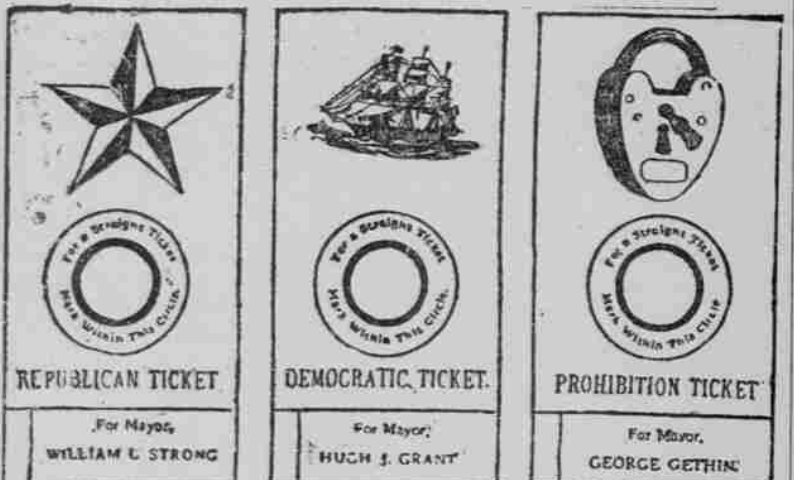
Just received. The largest and best assortment ever shown in Utah. Ball bearings on our carriage wheel a specialty. Prices from \$4.25 and upwards.

CALL AND GET OUR PRICES.

Co-op. Furniture Co.

The Idol of the Hour.

—New York Advertiser.



THE NEW BALLOT BLANKET.

Under which New York State will in the future vote. Every regular party is represented by an emblem, such as a star, ship, pullock, rooster, or an eagle. Beneath each emblem is a circle, and should a voter cross within that circle then he votes the entire ticket. Voters can write in pencil the name of any person they desire to vote for, but the task is by no means easy. To do so the voter has to get on the circle under the emblem, but a mark must be placed opposite the name of every candidate.

most as far into the question as he should, in quoting English precedents orally and giving facts as to the meaning of various words and phrases used in taxation. He said his statement of facts would be his principal argument and he held that in a case of the character of the income tax cases, facts were the best arguments that could be made. He claimed the weight of evidence was to the following account:

First—The word "duty" had a legal definition. The phrase "direct tax" had none, but was borrowed from political economy.

Second—A specific personal tax, specific real property tax, and specific income tax were each a duty within the meaning of the constitution. The general tax on all personal property at a valuation was not a duty, import or excise at all; nor was it a direct tax in political economy.

Third—A general income tax would probably have been considered an indirect tax.

Fourth—A general income tax, properly so-called, was unknown at the time of the constitution but was a duty within its meaning.

Fifth—A specific personal property or specific income tax was a duty, and not a direct tax.

At the Time of the Revolution.

Taking up the American system of taxation at the time of the revolution, Mr. Whitney said it was devoid of uniformity, and very difficult of classification. It could only be shown thoroughly by going through the statutes of the thirteen states, as he had gone through those of Great Britain. He quoted frequently from the report of Secretary of the Treasury Wolcott, made in 1796, in which that official states that the system was so different in various states and some of the states were almost without any form whatever. In North Carolina, for instance, lands were taxed uniformly. In South Carolina by districts and in Virginia by a classification of countries. He directed especial mention to Wolcott's report, saying that his explanation was clear and while he did not use the word "direct taxes" in the legal meaning, he gave it the meaning of the political economists. He said there had been no income tax in any of the states prior to the convention and that it was Delaware, and concerning that state there was apparently doubt. The system in use in most of the states was that of rating land for tax purposes at an annual valuation. Summing it up, he said the main result of the examination of the system in the various states had been negative in character, and had shown first, that the systems were so different that it was hard to determine now they did pay their taxes and secondly, that there was no settled meaning to the word "duty." The same tax was a duty at one place and an excise at another.

On All Property.

Mr. Whitney argued at great length to show that the present income tax is not a tax imposed on land nor on rents, because they are derived from land, but on property of all kinds, accruing to the owner within the year irrespective of its source.

In the question of uniformity, he said he had nothing to offer that had not been given in the original hearing, but he repeated some of those for the purpose, as he said, of setting the opposing side right as to the position of the government.

Mr. Whitney contended against the theory of personal uniformity as intended by the constitution. He argued that so far as corporations are concerned, the theory of individual uniformity, would not be applied to them. In estimating the profits of an individual, no account was taken of the time; he did not pay himself for managing his own business; yet corporations paid salaries to their officers for managing the business. In considering the matter of fairness of the exemption of incomes below \$4,000, Mr. Whitney asserted that the court had never assumed to declare that Congress had in any case exercised its discretion in any manner unreasonable and intimated that it never would go that length.

It appeared to be the undercurrent of Mr. Whitney's remarks that the government did not contend that the exemptions of certain classes of corporations were just. He referred to the authorities, however, to show that the supreme court had held that individual corporations might be exempted by name even from taxation.

Olney Follows.

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formation is, of course, the statute itself. The most superficial examination shows that real estate tax as such is intended by Congress. If it had been, there would have been a provision for the appraisement, by rental value or otherwise, of vacant and unproductive land. If it had been, there would have been provision for the appraisement, by rental value or otherwise, of houses and grounds which are occupied as homesteads and for purposes of private enjoyment and pleasure.

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real estate, so is a tax on interest and dividends a tax on the capital producing them.

"In 1796 the fathers of the republic said: Here is a constitution of government; not a metaphysical treatise. It must be apportioned; the tax before us is not in its nature apportionable without violating every principle of taxation. Therefore it is not a tax which is required to be apportioned.

"If this rule of 1796 were now to be followed, the cases now at the bar would present no difficulties. In lieu of it, however, and the flagrant iniquity of the working of the present doctrine being fully admitted, what we are presented with is the suggestion that it is not for current, every day use, but is to be applied only in extraordinary emergencies. What is the value of this suggestion? Legally speaking, nothing of course.

"I will not prolong the oral discussion. There are important questions of course, to which I have not spoken, but they were either argued fully at the former hearing or have been completely covered at the present time by the able and learned argument of my associate. I leave the case to the court, therefore, at this point—feeling sure of this at least, that if any consideration which can help save the government the integrity of one of its most important powers has failed to be developed, the failure cannot be attributed to any want of appreciation of the case, nor any intention on my part to give to it the most careful attention and study."

Choate Begins.
Mr. Olney concluded at 2:30 and was immediately followed by Mr. Choate, who began the concluding argument for the appellants in the case.

Mr. Choate's manner of introducing his remarks was strikingly peculiar. He began as if in the middle of a sentence, or as if he intended to complete a sentence, and finished by either Mr. Olney or Mr. Whitney.

"If the court please, we are in a court of law, and the court of constitution, and not engaged in a mass of political and party questions. It is a judicial assembly, as Mr. Whitney seemed to think, in whose presence his chief magistrate must be respected. It is an amendment of the constitution to get rid of what he calls this effete doctrine of apportionment."

"Why is it," he asked, "that the country is holding its breath for the decision on the second reading of the bill? We are the people from end to end of the country so eager to hear the definite, and final, and should a voter cross within that circle then he votes the entire ticket. Voters can write in pencil the name of any person they desire to vote for, but the task is by no means easy. To do so the voter has to get on the circle under the emblem, but a mark must be placed opposite the name of every candidate."

Mr. Choate then began his real argument, saying as he went that he would take up the question where it had been left off by the former decision. He did not intend to surrender any ground gained by the former decision and would regard it as settled and fixed that the question of municipal and state bonds could not be taxed.

With the point as to public bonds settled, all the remaining questions were answered, leaving the political questions to take care of themselves.

The decision made in that country, and the fact that the sending of the *Alert* to San Juan del Sur, Nicaragua, left the Isthmus unprotected, while the fact that the revolution in Colombia is still in progress, will probably cause the navy department to detain the *Monterey* at Panama for a time.

In Japanese Waters.
Washington, May 7.—The *Yokohama* of the Asahi Line, which sailed from Yokohama for Nagasaki, Japan, and the *Yokohama* from Ching Kiang to Che Foo.

MEXICAN MATTERS.
Ciudad de Mexico, May 7.—The Senate today voted approval of the settlement of the Guatemala-Mexico frontier row.

Guatemalan Minister de Leon, yesterday while troops were forming on the Reforma drive for parade, attempted to drive alone the line, but was stopped by the officer on guard. De Leon insisted that as a diplomat, he had a right to go anywhere. The officer, while holding a different opinion, allowed him to pass.

DOMESTIC DOTS.
Telegraph News from All Parts of the Land Over Which the Stars and Stripes Wave.

Charles Maguire was hanged at Lebanon, Pa., yesterday, for the murder of his wife.

The G. A. R. department of Nebraska, passed protesting resolutions against the celebration of the centennial of the confederate dead.

The first rain, with a single exception, that has visited Elkhart, Ind., since last fall, fell heavily last evening, lasting nearly an hour. The water was but scarcely up to the time of the rain fall.

Vice-Chancellor and ex-Governor Robert S. Green died at Elizabeth, N. J., yesterday, in his 66th year. He was a delegate to the Democratic national convention in 1890 which nominated Stephen A. Douglas for the presidency.

The little historic church built by Andrew Jackson and his wife near the Hermitage, in 1822, was badly damaged by the storm yesterday. It was blown upon